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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

THE REQUEST OF THE WIRELESS  
TELECOMMUNICATIONS BUREAU FOR  
COMMENT ON BROADBAND PCS  
C AND F BLOCK INSTALLMENT  
PAYMENT ISSUES

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DA 97-679

COMMENT OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF POCKET COMMUNICATIONS, INC.  
ON BROADBAND PCS C AND F BLOCK INSTALLMENT PAYMENT ISSUES

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The Official Committee of Unsecured Creditors (the "Committee") appointed in the chapter 11 bankruptcy case of Pocket Communications, Inc. ("Pocket") hereby submits its comment on broadband PCS C and F block installment payment issues.

#### INTRODUCTION

Pocket is a wireless telecommunications company that was formed in 1994 for the purpose of acquiring wireless communications licenses from the Federal Communications Commission (the "FCC" or the "Commission") and developing a wireless communications network to provide personal communications services. DCR PCS, Inc. ("DCR PCS") is a wholly owned subsidiary of Pocket and was formed by Pocket for the purpose of bidding for and holding any FCC licenses granted to Pocket and DCR PCS. DCR PCS was the successful bidder for, and is the licensee of, 43 broadband PCS C block licenses for several basic trading areas including Chicago, Detroit, St. Louis, Dallas, Las Vegas and Honolulu.

On March 31, 1997, Pocket and DCR PCS filed voluntary petitions for relief under chapter of title 11, the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Maryland. On or about April 16, 1997, the Committee was formally constituted and appointed by the Office of

the United States Trustee pursuant to section 1102 of the Bankruptcy Code. The Committee represents the interests of some 250 entities that have advanced in excess of \$130 million of credit to Pocket. Much of this indebtedness was incurred by Pocket in connection with its infrastructure buildout in Las Vegas and Honolulu and in furtherance of Pocket's efforts to deploy the spectrum licensed to DCR PCS in those markets.

Pursuant to section 1103(c) of the Bankruptcy Code, the Committee may, inter alia, consult with the debtor in possession concerning the administration of the bankruptcy case, investigate the desirability of the continuance of the debtor's business and any other matters relevant to the case or the formulation of a plan of reorganization, participate in the formulation of a plan, and perform such other services as are in the interests of those represented by the Committee. In furtherance of the foregoing responsibilities, the Committee submits this comment in response to the Wireless Telecommunications Bureau (the "Bureau") request for comment on broadband PCS C and F block installment payment issues (DA 97-679).

THE COMMITTEE IS ENCOURAGED BY THE COMMISSION'S EXPRESSION OF FLEXIBILITY IN ADDRESSING C BLOCK INSTALLMENT PAYMENT ISSUES.

The Committee is encouraged by the Commission's willingness to address the financial difficulties currently . challenging small business and entrepreneurial licensees. The Commission's concern for C and F block licensees is evidenced by (a) the Bureau's Order dated March 31, 1997, which suspended the deadline for broadband PCS C block installment payments;<sup>1</sup> (b) the Commission's agreement to subordinate its right to be paid from the proceeds of the sale of the DCR PCS licenses to the claims of Pocket's postpetition lenders; (c) the Commission's agreement to evaluate Pocket's restructuring proposals in light of the current market values of Pocket's licenses, Pocket's ability to pay its license obligations (as they may be restructured) and the requirements of feasibility under the Bankruptcy Code; and (d) the Bureau's willingness to consider options for restructuring broadband PCS C and F block indebtedness.<sup>2</sup> Indeed, the Committee placed significant reliance on the Commission's agreements to work

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<sup>1</sup> See Order, In the Matter of Installment Payments for PCS Licenses, DA 97-649 released: March 31, 1997).

<sup>2</sup> See Public Notice released June 2, 1997 entitled "Wireless Telecommunications Bureau Seeks Comment on Broadband PCS C and F Block Installment Payment Issues" (DA 97-679) (the "Public Notice").

with Pocket with a view toward a successful bankruptcy plan of reorganization in the Committee's decision not to challenge certain FCC related provisions of Pocket's postpetition financing.

THE FINANCIAL PROBLEMS CONFRONTING C AND F BLOCK LICENSEES HAVE ADVERSELY AFFECTED A BROADER ARRAY OF INDUSTRY PARTICIPANTS.

The financial difficulties faced by C and F block licensees are indeed grave.<sup>3</sup> Several licensees, including DCR PCS, have requested that their installment notes be reformed to provide for annual as opposed to quarterly interest payments.<sup>4</sup> MCI Telecommunications Corporation has proposed that C block licensees be permitted to defer payment and accrue interest for the first five years of the license term.<sup>5</sup> At least one licensee has

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<sup>3</sup> The financial difficulties faced by several individual C block licensees have been amply discussed in several letters to the Commission, each of which was cited in the Bureau's Public Notice and several of which are further cited, *infra*, at footnotes 4, 5 and 6.

<sup>4</sup> See Letter from Thomas Gutierrez, Esq., et al. to Michelle C. Farquhar, Esq., Chief, Wireless Telecommunications Bureau (March 13, 1997.) The petitioners include Alpine PCS, Inc.; DCR PCS, Inc.; Eldorado Communications, L.L.C.; Indus, Inc.; KMTel L.L.C.; Mercury PCS, L.L.C.; Microcom Associates; NextWave Communications, Inc.; and R&S PCS, Inc. In response, the Bureau released an Order which suspended the deadline for broadband PCS C block installment payments. See Order, In the Matter of Installment Payments for PCS Licenses, DA 97-649 (released: March 31, 1997).

<sup>5</sup> See Letter from Leonard S. Sawicki, Director, FCC Affairs, MCI Telecommunications Corporation, to Mr. William F. Caton, Secretary, Federal Communications Commission (May 1, 1997).

proposed suspending interest payments for five years, extending the initial license term to 20 years, allowing the transfer of C block licenses before the expiration of the five year holding period with modified unjust enrichment payments, and increasing the level of foreign equity permitted.<sup>6</sup> C block licensees are clearly in need of relief in respect of their license installment payment obligations.

But the financial hardships faced by the licensees have also significantly and adversely affected literally hundreds of non-licensee industry participants including vendors, suppliers, employees and other entities that have extended unsecured and unpaid credit to the licensees. Several creditors of Pocket, for example, have committed substantial portions of their net worth to Pocket in the form of unsecured trade credit and other indebtedness. Many of these creditors have sustained substantial losses as a result of Pocket's present inability to pay them for goods and services advanced in furtherance of Pocket's infrastructure buildout and license deployment efforts. These industry participants are and will remain critical to the success of small business and entrepreneurial carriers. The Committee

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<sup>6</sup> See Letter from James H. Barker and Michael S. Wroblewski, Counsel to Fortunet Communications, L.P., to Mr. William F. Caton, Secretary, Federal Communications Commission (May 9, 1997).

believes that the continuing participation of those entities represented by the Committee in further working with Pocket and the other C and F licensees depends in large measure on the potential for such creditors to receive at least some consideration for their claims against Pocket and other financially distressed licensees. What is at stake here transcends the needs of the licensees themselves and involves the financial viability of suppliers, vendors and other entities providing goods and services to broadband PCS licensees.

THE COMMISSION MUST TAKE INTO ACCOUNT THE INTERESTS OF NON-LICENSEE INDUSTRY PARTICIPANTS IN CONSIDERING PROPOSALS TO  
RESTRUCTURE C AND F BLOCK INSTALLMENT DEBT.

While the thrust of any restructuring proposal that may ultimately be adopted for C and F block licensees will be directed at alleviating the burden of the licensees' license payment obligations, the Committee believes that the Commission in evaluating such proposals must also take into account the significant hardships sustained by creditors of C and F block licensees, including those entities represented by the Committee in Pocket's chapter 11 case.

Although the Committee is not presently prepared to favor any particular proposal or to advance its own proposal to the Bureau and the Commission, the Committee believes that the

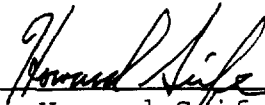
Commission must act promptly and that its analysis of restructuring proposals should take into account (a) the fair market value of the licenses, (b) the ability of the licensees to finance the construction of their networks, (c) the ability of the licensees to provide prompt service, and (d) ability of the licensees to repay their license indebtedness as the same may be restructured. The Committee also firmly believes that the installment payment obligations as presently structured will virtually foreclose most current licensees from fully exploiting the spectrum allocated to them and may ultimately lead to financial distress and the concomitant disruption that extends beyond the licensees themselves. Accordingly, the Committee urges the Bureau and the Commission to restructure the installment payment indebtedness in such a way as to preserve not only the licensees themselves, but also those non-licensee industry participants whose contributions



to the success of the small business and entrepreneurial licensees  
are critical.

Dated: New York, New York  
June 23, 1997

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